

REMARKS:

In the foregoing amendments, page 4 the specification was amended as suggested at the bottom of page 2 of the Official action. Accordingly, applicant respectfully requests that the objection to the specification set forth in the Official action be withdrawn.

The foregoing amendments canceled original claims 1-4 and added new claims 5-16 to the application. The relationship between original claims 1-4 and new claims 5-10 is as follows:

<u>Original Claims</u>	<u>New Claims</u>
1	5, 10
2	6
3	7, 8
4	9

New claims 11 and 12 define that the vehicle information includes target running control information, along the lines discussed on pages 8 and 11 of applicant's specification. Newly added claims 13 and 14 define that the detection means detects at least one of an operation period of time, running distance from a first point of time to a second point of time, and a weight of a load, along the lines discussed on page 9 of applicant's specification. New claims 15 and 16 define that the detection means detects at least one of vehicle fuel consumption rate information and oil station information, along the lines discussed on page 14 of applicant's specification.

After the foregoing amendments, claims 5-16 are in the application for consideration by the examiner.

The Official action objected to the drawings because in figure 2, "running state detection unit" should be labeled as "53" instead of "51" as shown. Together with this response, applicant is filing a Transmittal of Drawings, including a "Replacement Sheet" of Fig. 2. In the "Replacement Sheet" of Fig. 2, label "51" was replaced with "53," as suggested in the Official action. Accordingly, applicant respectfully requests that the objection to the drawings set forth on page 2 of the Official action be withdrawn.

Claims 3 and 4 were rejected under 35 U.S.C. § 112, second paragraph, as being vague and indefinite. This rejection is set forth in section 3 on page 3 of the Official action. The Official action stated that the alternative expressions "and/or" and "one or more first vehicles" renders the claims vague and indefinite. The Official action also questioned what is the meaning of "production" in this claim. New claims 5-16 do not include the alternative expressions, such as those noted in the Official action. With respect to expressions, such as, "production information" and "production planning information," these expressions are defined in applicant's specification disclosure. See, for example, the discussion for "production information" and "production planning information" on pages 5 and 6 of applicant's specification disclosure. An applicant can be his or her own "lexicographer" holds even

when the applicant defined the word or expression more broadly than its ordinary meaning. *Jack Guttman, Inc. v. Kopykake Enter., Inc.*, 302 F.3d 1352, 1360, 64 U.S.P.Q.2d (BNA) 1302, 1307 (Fed. Cir. 2002). If the patent specification defines a particular term, either expressly or by clear implication, it acts as a dictionary for interpreting that claim term. *CCS Fitness, Inc. v. Brunswick Corp.*, 288 F.3d 1359, 1366, 62 U.S.P.Q.2d (BNA) 1658, 1662 (Fed. Cir. 2002); *Johnson Worldwide Assoc. v. Zebco Corp.*, 175 F.3d 985, 989-90, 50 U.S.P.Q.2d (BNA) 1607, 1610 (Fed. Cir. 1999); *Vitronics*, 90 F.3d at 1582, 39 U.S.P.Q.2d (BNA) at 1577. Since the present specification provides a definition for the expressions "production information" and "production planning information," applicant respectfully submits that one of ordinary skill in the art would attach a particular and definite meaning to these expressions within the meaning of 35 U.S.C. § 112, second paragraph. Therefore, applicant respectfully requests that the examiner reconsider and withdraw this rejection.

The Official action set forth a prior art rejection of claims 1-3 under 35 U.S.C. § 102(b) as being anticipated by U.S. patent No. 6,677,854 of Dix. This rejection is set forth in section 5 on pages 3 and 4 of the Official action. Claim 4, which corresponds to new claim 9, was not rejected over prior art. In the rejection, the Official action referred to columns 15-17 of Dix as suggesting the presently claimed invention. Applicant respectfully submits that the presently

claimed invention is patently distinguishable from the teachings of Dix for at least the following reasons.

The teachings of Dix propose a remote vehicle diagnostic system that allegedly can be used for construction vehicles. However, applicant cannot find any discussion within the teachings of Dix concerning a scheduling means where the maintenance schedules for the plurality of vehicles prevent more vehicles than a predetermined number of vehicles from being suspended in operation at the same time, as required in claims 5 and 10. While the teachings of Dix are concerned with the scheduling of personnel and maintenance resources, these teachings never address the issue of maintaining the operation of a predetermined number of vehicles in a worksite, as required in claims 5 and 10. For these reasons, applicant respectfully submits that the inventions set forth in claims 5 and 10 are patently distinguishable from the teachings of Dix.

Applicant also cannot find where the teachings of Dix suggest the limitations of claims 6-9. These include the limitations of making maintenance schedules based upon detected positions of the plurality of vehicles (claim 6), making maintenance schedules for a second vehicle based on a first vehicle or first group of vehicles (claims 7 and 8), or the use of production information and production planning information (claim 9). For these reasons, applicant

respectfully submits that the inventions set forth in claims 6-9 are patently distinguishable from the teachings of Dix.

Still further, the teachings of Dix do not contemplate or suggest the invention defined claims 11 and 12, where the vehicle information includes target running control information; the invention defined in claims 13 and 14, where the detection means detects at least one of an operation period of time, running distance from a first point of time to a second point of time, and a weight of a load; or the invention defined in claims 15 and 16, where the detection means detects at least one of vehicle fuel consumption rate information and oil station information.


For reasons including the foregoing, applicant respectfully submits that the teachings of Dix do not disclose or suggest the invention as set forth in claims 5-16 within the meaning of 35 U.S.C §102(b) or 35 U.S.C §103.

Therefore, applicant respectfully requests that the examiner reconsider and withdraw the rejection of applicant's claims over these teachings and formally allow claims 5-16.

While it is believed that all the pending claims in this application are in condition for allowance and that the foregoing is a complete response to the Official action mailed May 18, 2005, should the examiner have any comments or questions, it is respectfully requested that the undersigned be telephoned at the below listed number to resolve any outstanding issues.

In the event that this paper is not timely filed, applicant hereby petitions for an appropriate extension of time. The Commissioner is hereby authorized to charge the fee therefor, as well as any deficiency in the payment of the required fee(s) or credit any overpayment, to our Deposit Account No. 22-0256.

Respectfully submitted,
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